



UNITED STATES PATENT AND TRADEMARK OFFICE

17C
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,267	03/13/2001	Yuji Kano	358.39731X00	9128

20457 7590 05/20/2003

ANTONELLI TERRY STOUT AND KRAUS
SUITE 1800
1300 NORTH SEVENTEENTH STREET
ARLINGTON, VA 22209

EXAMINER

NEWHOUSE, NATHAN JEFFREY

ART UNIT	PAPER NUMBER
----------	--------------

3727

DATE MAILED: 05/20/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/804,267

Applicant(s)

KANO, YUJI

Examiner

Nathan J. Newhouse

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 3727

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

2. The substitute specification filed February 27, 2003 has been entered.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-11 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Japanese reference(10-35699).

The Japanese reference discloses the claimed invention except for the relationship between the respective diameters of the bottle neck compared to the diameters of the outer cylindrical sealing protrusion and inner cylindrical sealing protrusion, the specific angles of the inner and outer cylindrical sealing protrusions. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize applicant's diameters of the bottle mouth inside and outside wall, and the diameters of the outer and inner cylindrical sealing protrusions, and to provide the specific angles of the inner and outer cylindrical sealing protrusions, since it has

Art Unit: 3727

been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

5. Claims 20-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hidding et al. '945.

Hidding teaches a closure having anti-doming ribs 34 on the undersurface of the top wall of the closure. Hidding et al. discloses the claimed invention except for the thickness of the top panel of the closure, the thickness of the ribs and the area of coverage of the ribs(as set forth in claims 12-15, 18-23 and 26-27). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the closure with the top panel and ribs having a thickness as set forth in claims 12-15, 18-23 and 26-27 and the ribs having an area of coverage as set forth in these claims, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

6. Claims 12-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Japanese reference(10-35699) in view of Hidding et al. '945.

The Japanese reference teaches everything except for the closure having ribs.

Hidding teaches a closure having anti-doming ribs 34 on the undersurface of the top wall of the closure. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide anti-doming ribs as taught by Hidding on the undersurface of the top wall of the closure of the Japanese reference to prevent the closure from doming as a result of the pressure within the bottle.

Art Unit: 3727

The combination, as set forth, discloses the claimed invention except for the thickness of the top panel of the closure, the thickness of the ribs and the area of coverage of the ribs(as set forth in claims 12-15, 18-23 and 26-27). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the closure with the top panel and ribs having a thickness as set forth in claims 12-15, 18-23 and 26-27 and the ribs having an area of coverage as set forth in these claims, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

7. Claims 28-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Japanese reference(10-35699) in view of Beck et al. (US 5,297,688) and Moore (US 4,566,603).

The Japanese reference discloses the claimed invention except for the relationship between the respective diameters of the bottle neck compared to the diameters of the outer cylindrical sealing protrusion and inner cylindrical sealing protrusion, the specific angles of the inner and outer cylindrical sealing protrusions. The Japanese reference does not teach the outer cylindrical sealing protrusion extending downwardly with an outwardly angled taper and the lower end of the outer cylindrical sealing protrusion extending outwardly in an arc form.

Beck et al. teaches a similar closure having inner and outer cylindrical sealing protrusions. The outer cylindrical sealing protrusion extends downwardly and has an outwardly extending tapered angle of inclination to allow for the outer sealing protrusion to flex outwardly easier to provide a better seal. See column 4, lines 8-13 of Beck et al.

Art Unit: 3727

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the outer sealing protrusion of the Japanese reference extend downwardly and outwardly with an angle of inclination as taught by Beck et al. to allow the outer cylindrical protrusion to flex outwardly more easily when the closure is applied to the container to provide a better seal.

Moore teaches a similar closure with inner and outer cylindrical sealing protrusions wherein the lower ends of these protrusions are tapered or rounded. The lower end of the outer cylindrical protrusion is formed with a taper or rounded to better direct the mouth of the bottle inwardly of the sealing protrusion upon contact therewith. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the lower end of the outer cylindrical sealing protrusion of the Japanese reference with a rounded or tapered portion to guide the neck inwardly of the outer sealing protrusion during application to ensure that the sealing protrusion is located in the proper position with respect to the container neck to provide the seal.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize applicant's diameters of the bottle mouth inside and outside wall, and the diameters of the outer and inner cylindrical sealing protrusions, and to provide the specific angles of the inner and outer cylindrical sealing protrusions, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Response to Arguments

8. Applicant's arguments with respect to claims 28-34 have been considered but are moot in view of the new ground(s) of rejection.

9. Applicant's arguments filed February 27, 2003 have been fully considered but they are not persuasive.

With respect to applicant's arguments concerning the Japanese reference, these arguments are not found persuasive. First applicant states that a partial translation of the pertinent portions of this reference were attached to the amendment filed on February 27, 2003, but this was not the case. It is to be further noted that while #31 of the Japanese reference is the outer cylindrical sealing protrusion, its interaction with surface #43 of the bottle is also particularly relevant. Without this translation, the Japanese reference was analyzed by what is shown in the figures. Figure 3 shows the outer sealing protrusion 31 angled inwardly when the cap is off of the bottle. Figure 4 shows this outer sealing protrusion 31 as being vertical when the cap is applied to the bottle. Clearly the outer sealing protrusion 31 must deflect outwardly when the cap is applied to the bottle. Therefore, the diameter of the outer sealing protrusion must be smaller than the outer diameter of the bottleneck.

With respect to applicant's arguments concerning the Hidding reference, these arguments are not found persuasive. Applicant argues that Hidding is not concerned with printing on the top surface of the cap. It is unclear how this argument is relevant to the subject matter of the claimed invention to which Hidding is applied. Moreover, the top surface of Hidding is shown as being flat and it is unclear why this flat surface could

Art Unit: 3727

not receive printing. As set forth in the above rejections, Hidding teaches all of the limitations set forth in the claims except for the specific thickness of the lid and ribs, as well as the ribs area of coverage of the cap. Obtaining these specific dimensions or thicknesses are matter of routine skill in the art.

Conclusion

Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, "should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners", M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to Tech Center 3700 Customer Service at (703) 306-5648, email CustomerService3700@uspto.gov .

Any inquiry concerning the merits of the examination of the application from the examiner should be directed to Nathan J. Newhouse whose telephone number is (703)-308-4158. The examiner can normally be reached on Monday-Thursday 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on (703)-308-2572. The fax phone numbers


Art Unit: 3727

for the organization where this application or proceeding is assigned are (703)-872-9302 for regular communications and (703)-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1148.

Other helpful telephone numbers are listed for applicant's benefit.

Allowed Files & Publication	(703) 305-8322
Assignment Branch	(703) 308-9287
Certificates of Correction	(703) 305-8309
Drawing Corrections/Draftsman	(703) 305-8404/8335
Fee Increase Questions	(703) 305-5125
Intellectual Property Questions	(703) 305-8217
Petitions/Special Programs	(703) 305-9282
Terminal Disclaimers	(703) 305-8408
Information Help line	1-800-786-9199
Internet PTO-Home Page	http://www.uspto.gov


Nathan J. Newhouse
Primary Examiner
Art Unit 3727

May 16, 2003